

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

VON BORSTEL

Atty. Ref.: 1331-334; Confirmation No. 3848

Appl. No. 09/763,955

TC/A.U. 1623

Filed: February 28, 2001

Examiner: Patrick T. Lewis

For: COMPOSITIONS AND METHODS FOR TREATMENT OF MITOCHONDRIAL  
DISEASES

\* \* \* \* \*

September 27, 2010

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE**

This is in response to the Official Action mailed April 21, 2008 in light of the  
Decision on Appeal mailed July 26, 2010.

**I. DOUBLE PATENTING**

In response to the provisional obviousness-type double patenting rejection, and  
without conceding thereto, attached is a terminal disclaimer executed by the  
undersigned, together a RCE and the requisite fees. A copy of the executed  
assignment for this case, submitted for recordal today with the Assignment Branch, is

also presented herewith. Withdrawal of the obviousness-type double patenting rejection is respectfully requested.

**II. INFORMATION DISCLOSURE STATEMENTS**

Several Information Disclosure Statements, beginning with the one filed on November 15, 2007, have been submitted for consideration in this case but have not yet been made of record. It is respectfully requested that all Information Disclosure Statements which have not been considered be entered and made of record in this case.

**III. INTERVIEW**

The present case was discussed with the Examiner (Dr. Lewis) on September 27, 2010, during which the procedure going forward was discussed. The Examiner is thanked for taking the time to discuss the case.

Favorable action is awaited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: /Leonard C. Mitchard/  
Leonard C. Mitchard  
Reg. No. 29,009

LCM:lfm  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100